

NO. D-1-GN-21-006917

**MAQUELA NOEL**  
*Plaintiff,*

V.

**WAFFLE HOUSE, INC. AND JOHN  
DOE, UNIDENTIFIED EMPLOYEE  
OF WAFFLE HOUSE, INC.**

*Defendants.*

**IN THE DISTRICT COURT**  
419TH, DISTRICT COURT  
**JUDICIAL DISTRICT**

**EXHIBIT**

C-1

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**OF TRAVIS COUNTY, TEXAS**

**PLAINTIFF'S ORIGINAL PETITION**

**TO THE HONORABLE JUDGE OF SAID COURT:**

**NOW COMES** Maquela Noel, hereinafter called Plaintiff, complaining of and about Waffle House, Inc. hereinafter called Defendant, and for cause of action would show unto the Court the following:

**DISCOVERY CONTROL PLAN LEVEL**

1. Plaintiff intends that discovery be conducted under Discovery Level 2.

**PARTIES AND SERVICE**

2. Plaintiff, Maquela Noel, is an individual whose address is 2255 S. University Parks Dr. #4203D, Waco, TX 76706.

3. Defendant Waffle House, Inc. is a foreign corporation doing business in Texas. Defendant's is headquartered at 5986 Financial Drive, Norcross, GA 30071. Defendant's registered agent in Texas is Corporation Service Company d/b/a CSC-Lawyers Incorporating Service Company. Pursuant to sections 5.201 and 5.255 of the Texas Business Organizations Code, Defendant may be served with process by serving its registered agent at 211 E. 7<sup>th</sup>, Ste.

620, Austin, TX 78701-0000.

4. Defendant, John Doe is an unidentified Waffle House, Inc., employee or former employee. Defendant's name and addressor unknown at this time, but he should be identified when Defendant, Waffle House, Inc. provides responses to TRCP 194 disclosures.

#### **JURISDICTION AND VENUE**

5. Plaintiff seeks judgment not to exceed \$1,000,000. The subject matter in controversy is within the jurisdictional limits of this court.

6. This court has jurisdiction over the parties because Defendant had substantial contact with the state of Texas.

7. Venue in Travis County is proper in this cause under Section 15.002(a)(1) of the Texas Civil Practice and Remedies Code because all or a substantial part of the events or omissions giving rise to this lawsuit occurred in this county.

8. At the time of the incident made the basis of this litigation, John Doe and Plaintiff were each Texas residents. Therefore, there is not complete diversity of jurisdiction in this case.

#### **FACTS**

9. On November 23, 2019, Plaintiff went to a Waffle House, Inc, restaurant located at 7809 E. Ben White Blvd., Austin, Travis County, Texas 78741 to have breakfast. The waiter, Defendant, John Doe – and employee of Waffle House, Inc. – brought Plaintiff silverware that was dirty, so Plaintiff asked the waiter (John Doe) for a cup of water that she could use to clean the silverware. A few minutes later, John Doe returned to the table with a cup of boiling water, which was spilled on to Plaintiff's chest and thighs causing her to suffer disfiguring burns that required her to undergo skin grafts. Plaintiff didn't know the water was boiling until it spilled on her and caused injury to her skin.

**NEGLIGENT HIRING, TRAINING AND RENTENTION BY WAFFLE HOUSE, INC.**

10. Defendant, Waffle House, Inc. owed Plaintiff, a customer at its restaurant, a duty to hire, supervise, train and retain employees, i.e., John Doe to perform duties reasonably related to its business so that John Doe could perform the requirements of his job without injury to Plaintiff and other customers. Defendant, Waffle House, Inc. breached its duties to adequately inquire into Defendant's John Doe's qualifications and experience to perform the duties of a waiter. Defendant, Waffle House, Inc. failed to properly train and failed to properly supervise Defendant, John Doe so that he would not bring boiling water to a customer's table. Despite his lack of qualification, training and experience, Defendant, Waffle House, Inc. retained Defendant John Doe in the position of waiter which allowed him the opportunity to harm Plaintiff as described herein. As result of the failures described herein, Plaintiff was injured and caused to suffer pain, mental anguish and permanent disfigurement.

**NEGLIGENCE OF JOHN DOE**

11. As spills and drops are a regular occurrence in the restaurant business, Defendant, John Doe owed Plaintiff a duty not to deliver dangerously hot/boiling water to Plaintiff's table. Defendant, John Doe breached that duty when he delivered the boiling water to Plaintiff's table. Defendant, John Doe's breach of the duty described herein, caused Plaintiff to suffer severe burns and permanent disfigurement when he delivered boiling water to her table.

**PROXIMATE CAUSE**

12. Each and every, all and singular of the foregoing acts and omissions, on the part of Defendants, taken separately and/or collectively, constitute a direct and proximate cause of the injuries and damages set forth below.

**DAMAGES FOR PLAINTIFF, MAQUELA NOEL**

13. As a direct and proximate result of the occurrence made the basis of this lawsuit, and Defendant's acts as described herein, Plaintiff, Maquela Noel was caused to suffer serious injuries including burns, intense pain and permanent disfigurement and to endure anxiety, pain, and illness resulting in damages more fully set forth below.

14. As a direct and proximate result of the occurrence made the basis of this lawsuit, Plaintiff, Maquela Noel has incurred the following damages:

- A. Reasonable medical care and expenses in the past. These expenses were incurred by Plaintiff, Maquela Noel for the necessary care and treatment of the injuries resulting from the accident complained of herein and such charges are reasonable and were usual and customary charges for such services in Travis County, Texas;
- B. Reasonable and necessary medical care and expenses which will, in all reasonable probability, be incurred in the future;
- C. Physical pain and suffering in the past;
- D. Mental anguish in the past;
- E. Physical pain and suffering in the future;
- F. Disfigurement in the past,
- G. Disfigurement in the future,
- H. Mental anguish in the past, and
- I. Mental anguish in the future.

15. By reason of the above, Plaintiff, Maquela Noel has suffered losses and damages in a sum within the jurisdictional limits of the Court and for which this lawsuit is brought.

**EXEMPLARY DAMAGES**

16. Defendants' acts or omissions described above, when viewed from the standpoint

of Defendants at the time of the acts or omissions, involved an extreme degree of risk, considering the probability and magnitude of the potential harm to Plaintiff and others. Defendants had actual, subjective awareness of the risk involved in the above-described acts or omissions, but nevertheless proceeded with conscious indifference to the rights, safety, or welfare of Plaintiff and others.

17. Based on the facts stated herein, Plaintiff requests exemplary damages be awarded to Plaintiff from Defendants.

**JURY DEMAND**

18. Pursuant to Texas Rule of Civil Procedure 216, Plaintiff requests a trial by jury and would show that the appropriate fee is paid contemporaneously with the filing of this Petition.

**PRAYER**

**WHEREFORE, PREMISES CONSIDERED**, Plaintiff, Maquela Noel, respectfully prays that the Defendants be cited to appear and answer herein, and that upon a final hearing of the cause, judgment be entered for the Plaintiff against Defendant for damages in an amount of \$1,000,000.00 which is within the jurisdictional limits of the Court; exemplary damages, excluding interest, and as allowed by Sec. 41.008, Chapter 41, Texas Civil Practice and Remedies Code; together with pre-judgment interest (from the date of injury through the date of judgment) at the maximum rate allowed by law; post-judgment interest at the legal rate, costs of court; and such other and further relief to which the Plaintiff may be entitled at law or in equity.

Respectfully submitted,

THE WASHINGTON FIRM, P.C.

By: *W. Washington*

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Associated Case Party: MAQUELA NOEL

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